REMARKS

Subject matter rejection

The prior arguments are incorporated by reference and supplemented as follows.

With respect, Applicants continue to assert that the Examiner misconstrues the Lowry case[1]. Lowry does NOT require, as explained before, that a data structure claim recite a functional application for the data structure. The case states:

> "Nor are the data structures analogous to printed matter. Lowry's ADOs do not represent merely underlying data in a database. ADOs contain both information used by application programs and information regarding their *physical interrelationships* within a memory. Lowry's claims dictate how application programs manage information. Thus, Lowry's claims define functional characteristics of the memory." [emphasis added] 23 USPQ2d at 1034

Note that what is required here is a recitation of

- Physical interrelationships between information in memory; and/or

- Dictating how application programs manage information; and./or

- Defining functional characteristics of memory.

Applicant respectfully submits that the claims rejected under section 101 do all of these things.

For instance, let us consider claim 28, which recites as follows:

> 28. A presentation program portion stored on a computer readable medium, said presentation program portion comprising :
>
> a sub-presentation program segment comprising:

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[1] In re Lowry, USPQ 2d 1031

a presentation element with a play-out specification

indicating how the presentation element is to be played; and

an interface program segment defining a reference timing

for the play-out specification, wherein the reference timing is

defined independent of the presentation element.

A physical interrelationship is recited because the interface program segment relates to the

presentation element and the sub-presentation program element relates to the presentation

portion. Moreover, the timing in the interface program segment dictates how application

programs running on the computer are to manage the use of the other segment. Moreover, the

structure of the sub-presentation program segment within the presentation program portion

defines functional characteristics within a memory. This is exactly the type of recitation that

Lowry indicates is **NOT** printed manner.

The other rejected claims contain similar recitations. For instance claim 29 recites as

follows:

29. The presentation program portion of claim 28, wherein the sub-

presentation program segment comprises a sequence of presentation

elements which are programmed to be presented one after the other.

Again, this claim dictates physical interrelationships between information in memory and

functional characteristics of the memory, because a sequence of presentation elements is recited.

This claim also dictates how an application program is supposed to use the data. Accordingly,

this claim does not constitute printed matter under the Lowry case.

Analogous arguments can be made with respect to the other claims that stand rejected

under section 101.
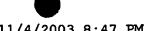
<u>Art rejections</u>

The prior arguments are incorporated by reference and supplemented as follows:

<u>Moorby: independent claims 28, 35, 36, and 37</u>

The Examiner now states that Applicant does not understand the relationship of displays with data stored on a computer. Applicant respectfully submits that it is the Examiner who does not understand this relationship. What is on the display does reflect data stored in memory in some vague fashion; however the relationship between what is on the screen and what is in memory is completely indecipherable from what is on the screen. The Examiner is only speculating about what is in Moorby's memory, based on impermissible hindsight in view of Applicant's disclosure. The timing information depicted on Moorby's screen might be stored in an entirely separate data structure from the presentation element. Such a storage scheme could work perfectly well to produce the GUI shown on the screen. The Moorby reference itself completely fails to teach or suggest what is in memory. It only shows a graphical user interface ("GUI").

The Examiner also seems to misconstrue the claim. The claim does not merely recite that there is playout data and playout specification in memory. The claim recites that there is a sub-presentation program segment comprising a presentation program element and an interface program segment. This defines a particular structure in memory, not just any structure in memory as the Examiner seems to conclude in applying the reference.

However, even if the GUI of Moorby did represent what was stored in memory, it fails to teach or suggest the claimed invention. The independent claims recite, *inter alia*, that "the

reference timing is defined independent of the presentation element." The GUI of Moorby shows the graphical representation of the presentation element integrated with, not independent from, the timing information; since the timing information as represented by sizing the representation of the presentation element.

Accordingly, the Examiner has failed to make a *prima facie* case of obviousness or anticipation against the independent claims.

Formal insufficiency of rejection

Applicant respectfully submits that the art rejections, especially those of most of the dependent claims continue to completely fail to satisfy 37 CFR 1.104 (c)(2), which states that

"When a reference is complex ... the particular part relied upon must be

designated as nearly as is practicable. The pertinence of each reference, if not

apparent, must be clearly explained and each rejected claim specified."

The Examiner has failed to indicate where the limitations of the dependent claims are allegedly taught or suggested by the reference, and does not even indicate which independent claim is referred to in any part of the first group of art rejections.

Moorby/Gudmondson: claim 43

In applying Gudmondson, the Examiner again appears to misconstrue the claims. Claim 43 recites, inter alia, that a multi-media presentation is stored as a plurality of self-contained sub-presentation data structures – BUT that is not ALL that is recited. Each data structure includes a play-out specification sub-structure and a plurality of presentation element sub-structures. A play-out specification portion is retrieved from a first location in the data structure. The play-out

specification specifies timing behavior of a respective presentation element within the data structure. Responsive to the play-out specification, at least one respective presentation element is retrieved from a second location in the data structure.

The Examiner cites col. 8, lines 25-67 of Gudmondson. This section does not go into any detail about what is inside the container objects. It just talks about how the interact with each other. It should be noted that objects are NOT just data structures. Objects contain data structures AND code. This section of Gudmondson fails to teach or suggest the particular data structures that are recited in claim 43 and reviewed in the previous paragraph of the present document. Applicant respectfully submits that Examiner just stops at the self-contained data structures recited in the first bulleted clause of claim 43 and fails to read the rest of the claim or indicate where the rest of the claim may be found in the reference.

The Examiner then cites Fig. 16 (c) of Gudmondson. This figure, like Moorby, only shows a user interface. It fails to teach or suggest what is going on at a detailed level within the memory or within any data structures.

The Examiner then cites column 16, lines 53+. This section relates to Fig. 1, but Applicants are unable to see any correspondence between this figure and the particular structures recited in claim 43, nor has the Examiner pointed to any.

The Examiner refers to Moorby, figures 11a-c & 12a, but these figures again show the GUI, not what data structures are in memory.

The Examiner cites col. 2, lines 34-36 of Moorby. This section refers to a data file, but does not indicate what structures are stored in it.

Accordingly, Applicant respectfully submits that the Examiner has failed to make a *prima facie* case of obviousness against claim 43.

Claim 44

It is not clear what is being referred to in the last paragraph of page 7 of the office action. The Examiner states that he is referring to a claim 43, which is dependent on a claim 42 — but claim 43 is NOT dependent on claim 42. Does the Examiner mean claim 44, which is dependent on claim 43?

With respect to whichever claim, the Examiner cites column 8, line 27, that refers to hierarchical encapsulation. However, this statement alone fails to teach or suggest what precise data structures are used. The containers of Gudmondson are objects, not data structures. Objects contain data structures, but they also contain code. Encapsulating objects fails to teach or suggest what data structures are used. *In fact it seems highly unlikely that there would be a single data structure for a presentation with sub-structures for sub-presentation elements. It seems more likely that sub-presentation elements are encapsulated with their own code, not in the same data structure with other sub-presentation elements.* Accordingly, this cited section proves nothing with respect to any of the claims.

Applicant respectfully submits that he has answered each issue raised by the Examiner and that the application is accordingly in condition for allowance. Allowance is therefore respectfully requested.

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Respectfully submitted,

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